

MAIL STOP AMENDMENT

PATENT MAINTENANCE  
DIVISION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2005 JAN 11 PM 3:34

US PATENT & TRADEMARK  
OFFICE

Applicants: Black et al.

Attorney Docket No. BING-1-1046

Serial No.: 10/717,736

Group Art Unit: 2863

Filing Date: November 20, 2003

Examiner: Lau, Tung

Title: COMPONENT HEALTH ASSESSMENT FOR RECONFIGURABLE  
CONTROL

RECEIVED

JAN 13 2006

OFFICE OF PETITIONS

**PETITION TO REVIVE DUE TO UNAVOIDABLE ABANDONMENT UNDER 37 C.F.R.**  
**§ 1.137(a), OR ALTERNATELY DUE TO UNINTENTIONAL ABANDONMENT**  
**UNDER 37 C.F.R. § 1.137(b), AND**  
**FOR REFUND OF FEES**

TO THE COMMISSIONER OF PATENTS:

Dear Sir or Madam:

Applicant hereby petitions to revive the above-referenced application due to unavoidable abandonment under 37 CFR 1.137(a), or alternately due to unintentional abandonment under 37 CFR 1.137(b), and for a refund of the petition fees and any other fees associated therewith, which are being submitted along with a Response to Restriction Requirement mailed on March 25, 2005, and alternately, petitions to reset the time for response to the subject Restriction Requirement (erroneously mailed to an incorrect address on March 25, 2005). This Petition is based on the enclosed declarations of attorney Dale C. Barr and Mark L. Lorbiecki.

BLACK LOWE & GRAHAM <sup>PLC</sup>

701 Fifth Avenue, Suite 4800  
Seattle, Washington 98104  
206.381.3300 • F: 206.381.3301

- 1 -

46020

CUSTOMER NUMBER

03/02/2006 CKHLOK 00000007 501050 10717736

BING-1-1046 Pet to Revive and for Refund.doc

01 FC:1452 500.00 DA  
02 FC:1453 1500.00 DA

## **FACTS IN SUPPORT OF PETITION**

1. A Restriction Requirement was mailed by the Patent Office on March 25, 2005 to an incorrect address. Specifically, the correct address of the attorneys of record is 701 Fifth Avenue, Suite 4800, Seattle, Washington, 98104. The Office Action was mailed to 816 Second Avenue, Seattle, Washington, 98104.

2. Examiner Tung Lau called attorney of record Dale Barr on October 27, 2005 to advise that no response to a Restriction Requirement mailed on March 25, 2005 had been received. After it was discovered that the Restriction Requirement had been mailed to an incorrect address, Examiner Lau then transmitted the subject Restriction Requirement to the attorneys of record on October 27, 2005, and invited the attorneys of record to provide a response by facsimile. (Please see Decl. of Dale Barr, Attachment A). Immediately thereafter, on October 27, 2005, a Response to the Restriction Requirement was transmitted to Examiner Lau by facsimile. (Please see Decl. of Dale Barr, Attachment B). Subsequently, a Notice of Abandonment was mailed on November 17, 2005.

4. Upon further investigation, Applicant has determined that the Patent Office was previously made aware of the correct address of the attorneys of record by one or more means, including the filing of one or more Change of Correspondence Address forms, and also by official change of the address associated with the Customer Number(s) of the attorneys of record. (Please see Decl. of Mark L. Lorbiecki).


5. File records indicate that the USPTO was specifically advised of the correct address of the attorneys of record in the above-referenced patent application. Specifically, the recordation of assignment cover sheet received by the USPTO on or about November 20, 2003 listed the correct address of the attorneys of record. (Please see Attachment C to Decl. of Dale Barr). Also, Applicant's Response to Notice to File Corrected Application Papers filed on

**46020**  
CUSTOMER NUMBER

- 2 -

BING-1-1046 Pet to Revive and for Refind.doc

**BLACK LOWE & GRAHAM<sup>PLC</sup>**

  
701 Fifth Avenue, Suite 4800  
Seattle, Washington 98104  
206.381.3300 • F: 206.381.3301

March 12, 2004 also provided the correct address of the attorneys of record to the USPTO. (Please see Attachment D to Decl. of Dale Barr).

6. Furthermore, file records demonstrate that the USPTO had actual knowledge of the correct address in the above-referenced patent application prior to the mailing date of the subject Restriction Requirement which ultimately caused the abandonment of the above-referenced application. Specifically, the Notice of Recordation of Assignment Document was mailed by the USPTO to the correct address on June 16, 2004. (Please see Attachment E to Decl. of Dale Barr). The mailing of the Notice of Recordation of Assignment Document to the correct address on June 16, 2004 demonstrates that the USPTO had actual knowledge of the correct address of the attorneys of record prior to the issuance of the Restriction Requirement (mailed on March 25, 2005 to an incorrect address).


6. Applicants respectfully submit that the foregoing facts constitute adequate grounds for revival of the application under 37 CFR 1.137(a), or alternately, under 37 CFR 1.137(b), and for refunding any and all petition fees and other fees associated with the filing of this Petition and the associated Response to Restriction Requirement.

**46020**  
CUSTOMER NUMBER

- 3 -

BINGO-1-1046 Pet to Revive and for Refund.doc

**BLACK LOWE & GRAHAM<sup>INC</sup>**

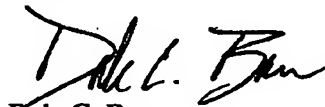
  
701 Fifth Avenue, Suite 4800  
Seattle, Washington 98104  
206.381.3300 • F: 206.381.3301

## CONCLUSION

For the foregoing reasons, Applicant respectfully requests that its Petition to Revive under 37 CFR 1.137 and for a refund of all fees associated herewith be granted and that the subject fees be refunded by crediting Applicant's Deposit Account Number 501050. If there are any questions or concerns regarding this Petition, or any matters that may be handled by telephone conference, the Examiner is kindly invited to telephone the undersigned attorney.

Respectfully submitted,

BLACK LOWE & GRAHAM<sup>PLLC</sup>



Dale C. Barr

Registration No. 40,498

Direct Dial: 206.381.3300

Enclosures:

Petition Fee

Declaration of Dale C. Barr

Declaration of Mark L. Lorbiecki

## MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP PETITIONS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

December 29, 2005  
Date of Deposit

Wendy Saxby  
Wendy Saxby

46020

CUSTOMER NUMBER

- 4 -

BING-1-1046 Pet to Revive and for Refund.doc

BLACK LOWE & GRAHAM<sup>PLLC</sup>

701 Fifth Avenue, Suite 4800  
Seattle, Washington 98104  
206.381.3300 • F: 206.381.3301